

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 11, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Hawaii

**Forfeiture of General Lease No. S-4450, Samuel Juichi Lono, Lessee,
Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-4-49:03.**

PURPOSE:

Forfeiture of General Lease No. S-4450, Samuel Juichi Lono, Lessee.

LEGAL AUTHORITY:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION AND AREA:

Portion of Government lands of Panaewa Farm Lots, 2nd Series, situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: 3rd/2-4-49:03, consisting of approximately 10.021 acres, as shown on the attached map labeled Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

General agricultural-residential purposes.

TERM OF LEASE:

55 years, commencing on September 4, 1975 and expiring on September 3, 2030.

ANNUAL RENTAL:

\$4,000.00 due in semi-annual payments.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in General Lease S-4450, Samuel Juichi Lono, Lessee, was served a Notice of Default by certified mail dated October 5, 2007 for:

- ☒ Failure to keep lease rental payments current
- ☐ Failure to post required performance bond
- ☐ Failure to post required fire insurance policy
- ☐ Failure to post required liability insurance policy

Said notice, accepted by the Lessee on October 10, 2007, offered the Lessee a sixty-day cure period to correct the default. This cure period expired on December 8, 2007. As of December 27, 2007, this breach has not been cured.

Lessee was also served a Notice of Default by certified mail dated October 5, 2007 for:

- ☐ Failure to keep lease rental payments current
- ☐ Failure to post required performance bond
- ☐ Failure to post required fire insurance policy
- ☒ Failure to post required liability insurance policy

Said notice, accepted by the Lessee on October 30, 2007, offered the Lessee a sixty-day cure period to correct the default. Certificate of liability insurance was received. However, it did not name the State of Hawaii as additional insured as required by the lease terms and as such, is still considered to be in default. The cure period for this default expired on December 8, 2007. As of December 27, 2007, this breach has not been cured.

As of December 27, 2007, the current status of all lease compliance items is as follows:

RENT: The Lessee **is not** current with all rent obligations.

INSURANCE: The Lessee **has not** posted the required liability insurance policy.

PERFORMANCE BOND:

The Lessee has posted the required performance bond.

CONSERVATION PLAN:

The Lessee **has not** submitted a conservation plan but has submitted a request for a plan and is working with the Waiakea Soil and Water Conservation District to complete a conservation plan.

Previous notices of default sent to Lessee within the past two years; (all notices sent by certified mail)

DATE	TYPE OF DEFAULT	RESULT
4/21/05	Rent	5/06/05 (Cured)
9/26/05	Rent	Letter returned unclaimed,
2/14/06	Conservation Plan	6/30/06* (pending)
3/21/06	Rent	4/19/06 (Cured)
3/29/07	Rent	5/25/07 (Cured)

Historically, this lease has shown little or no agricultural activity taking place on it. The original Lessees built a house on the lot but did little or no agriculture development. Several notices have been served over the years for violations with regards to non-compliance and storing of abandoned vehicles. Although the lease was assigned in 2000, there was no change in the status of use (or non-use).

Staff therefore is recommending that the Board authorize the cancellation of General Lease No. S-4450.


RECOMMENDATION: That the Board:

1. Authorize the cancellation of General Lease No. S-4450 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-4450 as liquidated damages;

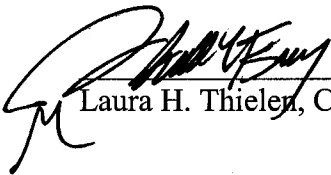
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of **January 11, 2008**, provided that any and all obligations of the Lessee which have accrued up to said effective date or which are stated in the lease to survive termination shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-4450 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



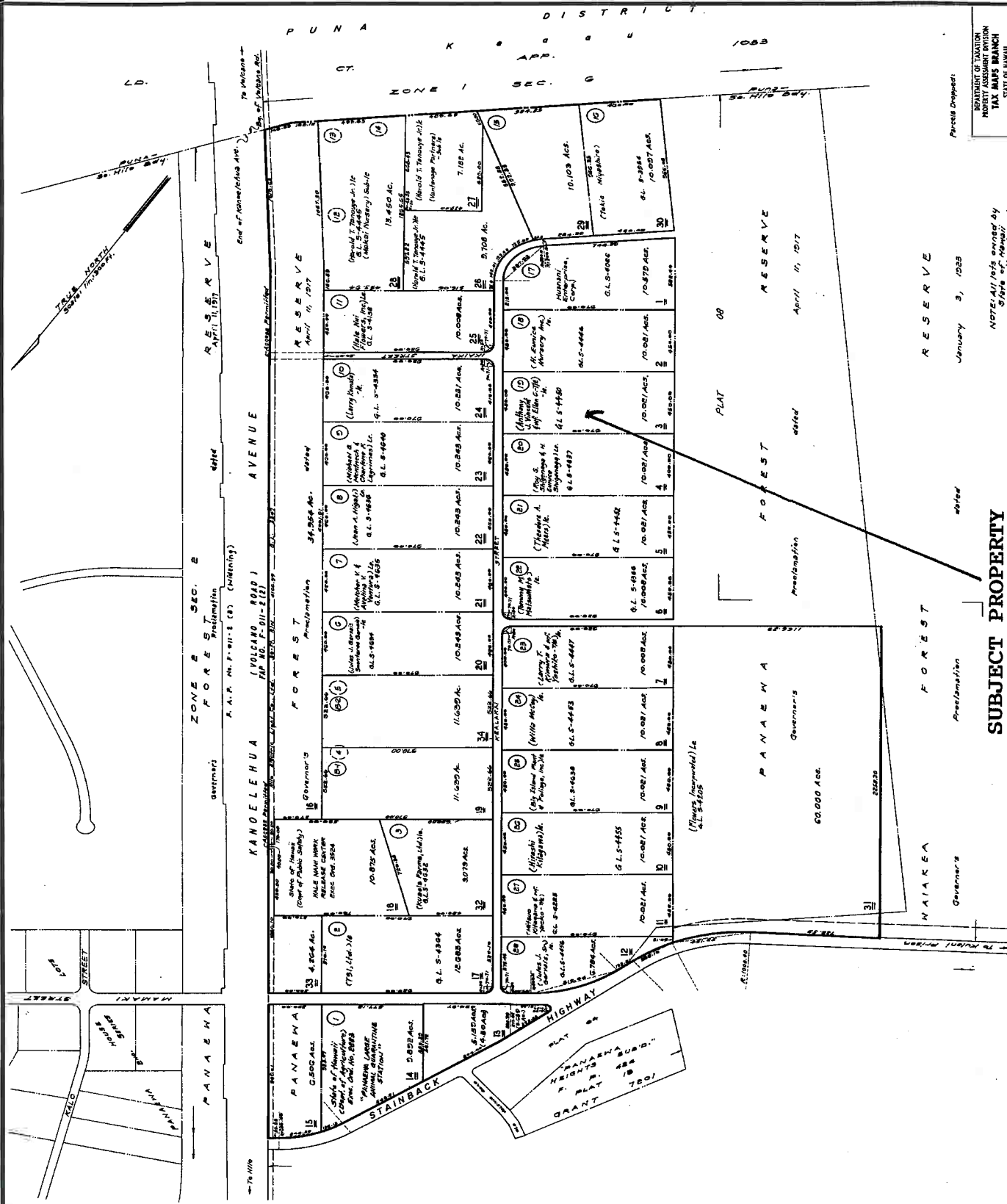
 Gordon C. Heit
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





DEPARTMENT OF TAXATION
PROPERTY ASSESSMENT DIVISION
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

Parish District:

January 3, 1928

NOTED: This map was prepared by the State of Hawaii, unless otherwise noted.

FOR REAL PROPERTY TAXATION PURPOSES
SUBJECT TO CHANGE

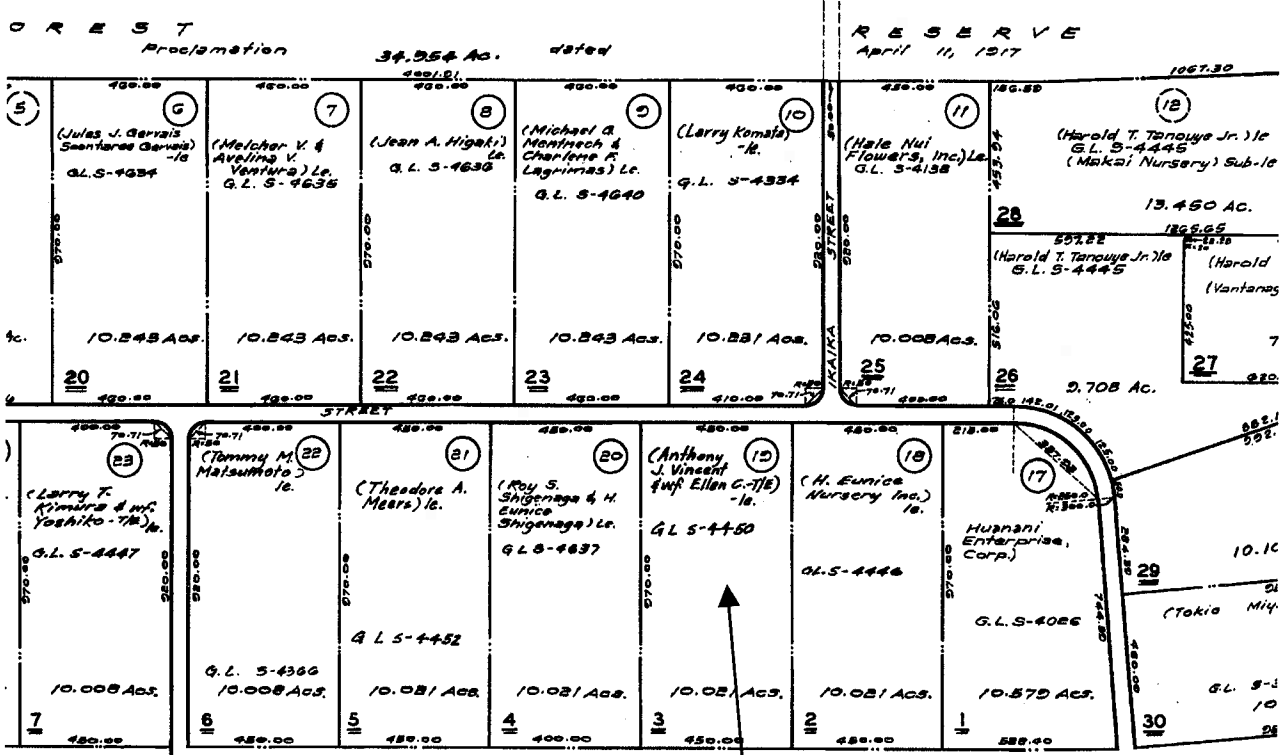
ZONE	SEC.	PLAT
2	4	49

SCALE 1 IN. = 800 FT.

SUBJECT PROPERTY

"PANAHEWA FARM LOTS", 2ND SERIES, FOR WAIKAE, S. HILO, HAWAII (Formerly par. 2-4-08)

TMK: 3RD/2-4-49:03



GENERAL LEASE S-4450

